

WB

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, :

Plaintiff, :

v. : CIVIL ACTION NO. 18.CV-1777

CATHERINE DEMARCO, :

Defendant. :

C O M P L A I N T

The United States of America, by its attorneys, William M. McSwain, United States Attorney in and for the Eastern District of Pennsylvania, and Anthony St. Joseph, Assistant United States Attorney for said District, complains of the defendant as follows:

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1345 in that the plaintiff is the United States of America on behalf of its agency, Social Security Administration.
2. Venue is properly set pursuant to 28 U.S.C. §1391 in that the plaintiff is complaining of Catherine DeMarco, residing at 538 East Airy Street, Norristown, Pennsylvania, a location within this District.
3. From January 2011 through July 2012, Defendant Catherine DeMarco received an overpayment of Social Security Disability Benefits based on substantial gainful activity. Defendant was not entitled to these benefits, and was overpaid benefits totaling \$30,490.60 of which \$1,854.00 was adjusted and reduced the overpayment to \$28,636.60.

4. On January 29, 2013, defendant entered into an installment agreement of \$50.00 a month, but made no payments. On January 7, 2014, plaintiff reported the debt to the Credit Bureau. From June 2014 through September 2014, defendant made four monthly payments of \$50, which reduced the overpayment to \$28,436.60.

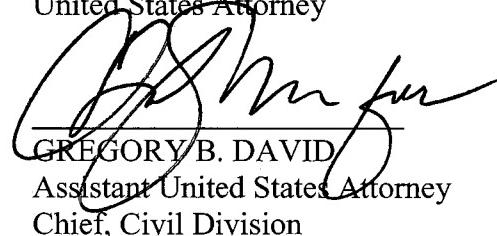
5. Pursuant to Section 204(a) of the Social Security Act, defendant owes an unsatisfied indebtedness to plaintiff in the principal amount of \$28,436.60, as set forth in the Certificate of Indebtedness attached hereto as Exhibit "A."

6. Defendant has failed to pay the aforesaid amount, although demand has been made for payment.

WHEREFORE, plaintiff demands judgment against the defendant, Catherine DeMarco in the amount of \$28,436.60 plus interest on the judgment at the legal rate, plus costs and other proper relief until paid in full.

Respectfully submitted,

WILLIAM M. MCSWAIN
United States Attorney



GREGORY B. DAVID
Assistant United States Attorney
Chief, Civil Division



ANTHONY ST. JOSEPH
Assistant United States Attorney

Exhibit A

SOCIAL SECURITY ADMINISTRATION
MID-ATLANTIC PROGRAM SERVICE CENTER
PHILADELPHIA, PENNSYLVANIA 19123

CERTIFICATE OF INDEBTEDNESS

Claim No. [REDACTED] A

Catherine Demarco
538 E. Airy Street
Norristown, PA 19401

Total debt due United States as of October 19²⁰¹³: \$28,436.60

I certify that the SOCIAL SECURITY ADMINISTRATION records show that the debtor named above is indebted to the UNITED STATES in the amount stated above.

The claim arose in connection with an overpayment of Social Security Benefits.

Section 216(I) of the Social Security Act defines disability as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months.

Section 204(a) of the Social Security Act provides that an overpayment made to a beneficiary must be recovered by withholding benefits later payable to the person unless relief from repayment can be granted under a waiver provision in the law. Relief through waiver is permitted only when the overpaid person was without fault in causing the overpayment and adjustment or recovery would be inequitable or would cause financial hardship. Both conditions must be met before waiver is applicable.

From January 2011 through July 2012, the debtor named above should not have been paid Social Security Disability Benefits based on substantial gainful activity. Her Disability benefits terminated effective October 2013. She was not entitled to benefits paid January 2011 through July 2012. She was, in fact overpaid benefits totaling \$30,490.60 of which \$1,854.00 of her benefits have been adjusted which reduced the overpayment to \$28,636.60. On January 29, 2013 she made an installment agreement of \$50.00 a month which reduced the overpayment to

GOVERNMENT
EXHIBIT
A

\$28,436.60, pursuant to section 204(a) of the Social Security Act, leaving an unsatisfied indebtedness of \$28,436.60.

CERTIFICATION, Pursuant to 28 USC Section 1746, I certify under penalty of perjury that the foregoing is true and correct.

Elaine Garrison-Daniels
Elaine Garrison-Daniels
Assistant Regional Commissioner
for Processing Center Operations

Date 10/12/2017

GOVERNMENT
EXHIBIT
A

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the case file number. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

ANTHONY ST. JOSEPH, AUSA

U.S. Attorney's Office

615 Chestnut Street, Suite 1250, Philadelphia, PA 19106

DEFENDANTS

CATHERINE DEMARCO

538 EAST AIRY STREET, NORRISTOWN, PA 19401

County of Residence of First Listed Defendant Philadelphia

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only) 1 U.S. Government Plaintiff 3 Federal Question
(U.S. Government Not a Party) 2 U.S. Government Defendant 4 Diversity
(Indicate Citizenship of Parties in Item III)**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

Citizen of This State	PTF	DEF	PTF	DEF
<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input checked="" type="checkbox"/> 120 Miller Act <input type="checkbox"/> 180 Negotiable Instrument <input checked="" type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input checked="" type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability PERSONAL PROPERTY <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/ Disabilities - Employment <input type="checkbox"/> 446 Amer. w/ Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))

Click here for: Nature of Suit Code Descriptions.

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation - Transfer 8 Multidistrict Litigation - Direct File

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Section 204(a) of the Social Security Act

VI. CAUSE OF ACTION

Brief description of cause:

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.**DEMAND \$**

28,436.60

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

APR 27 2018

DATE

4/27/18

SIGNATURE OF ATTORNEY OF RECORD

Anthony St. Joseph, Assistant United States Attorney

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE

18-cv-1777

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 615 Chestnut Street, Suite 1250, Philadelphia, PA 19106

Address of Defendant: 538 East Airy Street, Norristown, PA 19401

Place of Accident, Incident or Transaction:

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes No

Does this case involve multidistrict litigation possibilities?

Yes No

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes No

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes No

CIVIL: (Place ✓ in ONE CATEGORY ONLY)

A. Federal Question Cases:

- Indemnity Contract, Marine Contract, and All Other Contracts
- FELA
- Jones Act-Personal Injury
- Antitrust
- Patent
- Labor-Management Relations
- Civil Rights
- Habeas Corpus
- Securities Act(s) Cases
- Social Security Review Cases
- All other Federal Question Cases

(Please specify) Section 204(a) of the Social Security Act

B. Diversity Jurisdiction Cases:

- Insurance Contract and Other Contracts
- Airplane Personal Injury
- Assault, Defamation
- Marine Personal Injury
- Motor Vehicle Personal Injury
- Other Personal Injury (Please specify) _____
- Products Liability
- Products Liability — Asbestos
- All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, _____, counsel of record do hereby certify:

- Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- Relief other than monetary damages is sought.

DATE: _____

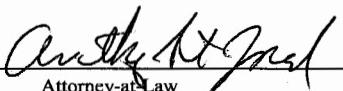
Attorney-at-Law

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 4/27/18



Attorney-at-Law

Anthony St. Joseph,
Assistant United States Attorney

APR 27 2018

84901

Attorney I.D.#

WB

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

UNITED STATES OF AMERICA

CIVIL ACTION

v.

CATHERINE DEMARCO

NO. *18-cv-1777*

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

4/27/18
Date
215-861-8267

Anthony St. Joseph
Attorney-at-law
215-861-8618

Anthony St. Joseph
Attorney for Plaintiff
Anthony.StJoseph@usdoj.gov

Telephone

FAX Number

E-Mail Address

(Civ. 660) 10/02

APR 27 2018